

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1202 of 2007()

CC.232/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL
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PETITIONER/ACCUSED:

SULEKHA BEEVI, AGED 53 YEARS,
GREEN HILL HOUSE,
ILAVATTOM, PACHAMALA,
KURUPUZHA VILLAGE, NEDUMANGADU TALUK,
TRIVANDRUM DISTRICT.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
 2. CHELLAPPAN,
S/O.KRISHNAN, CHERUVILA VEEDU,
IDANJIMON, ILAMPA DESOM,
AVANAVANCHERI VILLAGE.

BY ADV. SRI.M.ALTHAF
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1202 of 2007

Dated this the 13th day of April 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The verdict of guilty, conviction and sentence have now become final. The petitioner has now been sentenced to undergo imprisonment till rising of court and to pay the cheque amount of Rs.4,00,000/-. The petitioner has not appeared before the learned Magistrate so far to undergo the substantive/default sentence.

2. It is the case of the petitioner that the entire amount due under the cheque, as directed, has been paid and discharged. In fact, the complainant went before the learned Magistrate and filed Annexure D application in which it was categorically stated that the entire amount due under the cheque has been received. The entire amount due under the cheque is an amount of Rs.4,00,000/- which has been directed to be paid as compensation.

3. The petitioner has now come before this court with the prayer that the dictum in Sabu George v. Home Secretary [2007 (1) KLT 982] may be invoked and permission may be granted to compound the offence. No deterrent substantive sentence of imprisonment is imposed. The substantive sentence of imprisonment is only imprisonment till rising of court. The complainant accepts that the entire amount due under the cheque is paid and discharged. In these circumstances, there is no question of any default sentence being executed against the petitioner. In Girish v. Muthoot Capital Service (P) Ltd. [2007(1) KLT 16] it has been made clear that when the amount of compensation has been paid to the complainant as directed and received by him in full satisfaction, there can be no question of the default sentence being executed against the accused.

4. That means that the petitioner will now have to undergo only imprisonment till rising of court. I find no reason to invoke the powers under Section 482 Cr.P.C to accept a post revision composition of the offence under Section 138 of the Negotiable Instruments Act. The learned counsel for the respondent who has appeared before me confirms that the entire amount due under the cheque has been paid.

5. This Criminal Miscellaneous Case is, in these circumstances, dismissed. The petitioner must forthwith appear before the learned Magistrate and undergo the substantive sentence of imprisonment till rising of court. In as much as Annexure D has already been filed before the learned Magistrate and the respondent through Adv. Sri.M.Althaf has confirmed to this court that the payment has been received, it is not necessary to insist on any further formalities.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007